



## DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS

2000 NAVY PENTAGON

WASHINGTON, DC 20350-2000

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Ser DNS-36SF/14U106276

30 July 15

Mr. Jack Gillum  
The Associated Press  
Washington Bureau  
1100 13<sup>th</sup> Street NW, Suite 700  
Washington, DC 20005

Dear Mr. Gillum:

This is in reference to your Freedom of Information Act (FOIA) request dated October 8, 2013. Your request was received in our office on the same day and assigned FOIA case number DON-NAVY-2014-000079.

You requested copies of the following described records:

1. All emails sent to or from agency staff during the last five years in which "SWAT", "special response team", armed response team" or "SRT" are in the subject and/or body of the email.
2. All contracts with private security companies used to carry out agency functions, including those that authorize the use of lethal force and/or collect past-due debts.
3. Digital copies of any database, spreadsheet or documents detailing instances in which lethal force was used during the past five years.
4. Copies of policies governing the use of SWAT, special response, rapid response or armed response teams as part of your enforcement efforts, including guidelines detailing when such teams may be deployed.

In regard to your item 1, a search of our offices for potentially responsive documents produced 2 documents consisting of 8 pages. Upon review of these documents, it has been determined that they contain personally identifiable information (e.g., names, phone numbers, and email addresses), which is exempt from disclosure under 5 U.S.C. § 552(b)(6), since release of this information would result in a clearly unwarranted invasion of their personal privacy.

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In addition to the aforementioned exemption, these files contain deliberative process privileged material, are pre-decisional in nature, and/or contain working versions of documents, and are thus exempt from disclosure under 5 U.S.C. § 552(b)(5). These records were originated by or in concert with the Director for Material Readiness & Logistics (N4), containing drafts and/or proposals of documents not in their final form, and, therefore, are exempt from disclosure. Furthermore, these files contain information that would disclose guidelines for law enforcement investigations or prosecutions, and, therefore, disclosure could reasonably be expected to risk circumvention of the law and are thus exempt from disclosure in their entirety under 5 U.S.C. § 552(b)(7)(E). The list of this category of documents follows:

- a. Email xxxxxxxxxxxx 29 Apr 13 (with comments)-6 pages
- b. Email xxxxxxxxxxxx 15 Nov 12 (with comments)- 2 pages

In regard to your item 2, the business of contracting for personnel services is decentralized throughout the Navy, and is delegated to the local command where the need for such services is required. Since there is not a centralized repository or directory for Navy records, a general Navy-wide search of this nature is not reasonable in scope. Therefore, the entirety of records you are seeking are not available. However, in effort to provide you with an example of these types of standardized contracts for security services, a search of our localized offices for potentially responsive documents produced one (1) document consisting of approximately 257 pages.

This document responsive to item 2 is titled "N40080-11-R-0467 Contract Award." It was determined that this document contains information that pertains to Executive Order 12,600, that governs the process for notifying those businesses who submit information of potential commercial value to the government when that information becomes the subject of a FOIA request. Under this process, business submitters are entitled to notification and an opportunity to object to disclosure before an agency makes a possible disclosure determination. In this regard, we forwarded this document to HBC Management Services, Inc. to consider portions of the document that might be exempt from release under FOIA exemption 5 U.S.C. § 552 (b)(4). Exemption (b)(4) "protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential. Subsequently, HBC Management

Services, Inc. replied to our notification and believes that some of the information requested should not be released under Exemptions (b)(4). HBC Management Services, Inc. provided us with redaction recommendations that we concurred with in their entirety. The portions containing this information have been apportioned, marked, and redacted. The remaining apportioned information is being released to you as a standardized example of like documentation that is utilized throughout the Navy for similar personnel service contracts.

In regard to item 3, in attempt to locate records responsive to your request, this office contacted: the Naval Supply Systems Command (NAVSUP); Naval Facilities Engineering Command (NAVFAC; The Commander, Naval Installations Command (CNIC); Physical Security, Law Enforcement, AT Ashore (N46). After consultation with these offices, no responsive records were located. Furthermore, since there is not a centralized repository or directory for records, a Navy wide search of this nature is not reasonable in scope. Therefore, no responsive records were located.

In regard to your item 4, a search of our offices for potentially responsive documents produced approximately 489 pages of documents across 8 files. Upon review, we determined that 7 of these files (approximately 387 pages) contain deliberative process privileged material, are pre-decisional in nature, and/or contain working versions of documents, and are thus exempt from disclosure under 5 U.S.C. § 552(b)(5). These records originated by or in concert with the Director for Material Readiness & Logistics (N4), contain drafts and/or proposals of documents not in their final form. Per the executive guidance on discretionary disclosure, this office reviewed the subject documents for discretionary disclosure under 5 U.S.C. § 552(b)(5) with a presumption toward disclosure and have determined that they should be withheld in their entirety. Additionally, we determined that these files contain information that would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, and are thus exempt from disclosure under 5 U.S.C. § 552(b)(7)(E). The list of this category of documents withheld in their entirety are as follows:

- a. 0313 Special Reaction Teams- Draft (with comments)-5 pages

- b. ATTIUSH4-3 pages
- c. Consolidated Matrix OPNAVINST 5530 14F 7 Jan 14  
(with comments)-129 pages
- d. Consolidated Matrix OPNAVINST 5530 14F 26 Sep 12  
(with comments)-35 pages
- e. Draft OPNAV 5530 14F 0-6 Chop June 13 (with  
comments)- 142 pages
- f. Jan 13 Aircraft Security with Accepted Changes (with  
comments)-3 pages
- g. N46 Coord Adjudicated Matrix 5 Jul 12 (with  
comments)-70 pages

The remaining document, "OPNAV 5530 14 E w CH-1 (With comments),"consisting of 95 pages, is released to you in its entirety.

Because your request is partially denied, you are advised of your right to appeal the denial of your request by writing to:

Office of the Judge Advocate General  
1322 Patterson Ave, SE, Ste 3000  
Washington Navy Yard, DC 20374-5066

Your appeal must be postmarked within sixty calendar days from the date of this letter. A copy of your initial request and this letter must accompany the appeal. The appeal should be marked "FREEDOM OF INFORMATION APPEAL" both on the envelope and the face of the letter. In order to expedite the appellate process and ensure full consideration of your appeal, your appeal should contain a brief statement of the reasons you believe this decision to be in error.

Additionally, the 2007 FOIA amendments directed the Chief FOIA Officer of each agency to designate one or more FOIA Public Liaisons. Please be advised that the DON FOIA Public Liaison is available to assist in disputes between the requester and the agency. The role of the Liaison is to provide FOIA requesters with an avenue to raise concerns about the service received from a Navy Requester Service Center. You may write to the DON FOIA Public Liaison at Department of the Navy Chief Information

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Office (DON CIO), 1000 Navy Pentagon, Washington, DC 20350-1000. Alternately, you may contact the DON FOIA Public Liaison via telephone at (703) 695-1297, via fax at (703) 614-4388, or via email at DONFOIAPublicLiaison@navy.mil.

In this instance, the fees associated with the processing of this request were below the minimum threshold and have not been assessed. Please be advised, however, that fees, fee categories, and fee waivers are determined on a case-by-case basis, and a previous determination has no influence on future determinations.

Questions regarding the action this office has taken during the processing of your request may be directed to our FOIA Service Center at (202) 685-0412.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Patterson", is written over the typed name.

R PATTERSON

Head, DON PA/FOIA Program Office